IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 6TH FEBRUARY 2007 / 17TH MAGHA 1928

WP(C).No. 3997 of 2007(A)

PETITIONER:

SOUTH INDIAN TIMBER INDUSTRIES,
KUDAMALOOR, KOTTAYAM, REPRESENTED BY
ITS MANAGING PARTNER, MR. C.BHASKARAN NAIR.

BY ADV. SRI.RAMESH CHERIAN JOHN

RESPONDENTS:
----

1. **ASSISTANT COMMISSIONER (KGST)**
   COMMERCIAL TAXES, SPL. CIRCLE,
   KOTTAYAM.

2. **THE DEPUTY COMMISSIONER (APPEALS),**
   COMMERCIAL TAXES, KOLLAM.

3. **THE DISTRICT COLLECTOR,**
   KOTTAYAM.

BY GOVERNMENT PLEADER SRI. MUHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

WP(C).No.3997 of 2007-A

Dated this the 6th day of February, 2007.

JUDGMENT

The petitioner has approached this court challenging Ext.P11 interim order. It is an order passed disposing of Ext.P10 application for stay filed along with Ext.P8 appeal. In the said appeal, the petitioner challenges Ext.P7 assessment of sales tax for the year 2004-2005. The appellate authority has granted stay on condition that the petitioner pays 50% of the amount demanded. The learned counsel for the petitioner pointed out that the petitioner has stopped the business on 31-3-2005. The closing stock on the said date has been included in the turnover of the petitioner on the assumption that he sold the goods held as closing stock on 31-3-2005. The petitioner submits the said assumption is unwarranted. If that period is excluded, there will be no liability for the petitioner to pay the tax.

2. I heard the learned Government Pleader on this point.

3. Having regard to the contention raised by the petitioner, I feel that the petitioner is entitled to get stay on more liberal terms. Accordingly, the petitioner shall pay one-fourth of the balance tax within two weeks from today and furnish security for the balance

amount. In that event, further recovery pursuant to the impugned order Ext.P7 shall remain in abeyance till Ext.P8 appeal is heard and disposed of by the second respondent. The petitioner shall co-operate with the appellate authority for the early disposal of the appeal and the appellate authority shall endevour to dispose of the appeal as expeditiously as possible at any rate within six months today. It is made clear that I did not express anything on the merits of the writ petition.

The writ petition is disposed of as above.

K.BALAKRISHNAN NAIR,
MS JUDGE.